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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DENGLE LEMO GAHANO,

7 Plaintiff,

8 v.

9 STEPHEN LANGFORD,

10 Defendants.

Case No. C20-5451 TSZ-TLF

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT
OF COUNSEL

11 This matter comes before the Court on plaintiff's motion for appointment of
12 counsel. Dkt. 8. Plaintiff is proceeding *in forma pauperis*. The Court has considered the
13 record and finds that plaintiff's motion for counsel should be denied at this time, without
14 prejudice. Plaintiff will be allowed to renew this motion if, at a later time in the
15 proceedings, exceptional circumstances would require appointment of counsel.

16 No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v.*
17 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v. \$292,888.04*
18 *in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this
19 section is discretionary, not mandatory."). In "exceptional circumstances," a district court
20 may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)). *Rand*
21 *v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d
22 952 (9th Cir. 1998).

23 The Court must evaluate both "the likelihood of success on the merits [and] the
24 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the
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1 legal issues involved.” *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.1991) (quotations
2 omitted). A plaintiff must plead facts that show he has an insufficient grasp of his case
3 or the legal issue involved, and an inadequate ability to articulate the factual basis of his
4 claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

5 Here, plaintiff filed his complaint *pro se* and has demonstrated an ability to
6 articulate his claims *pro se* in a clear fashion understandable to this Court, despite
7 plaintiff’s assertion that he is not fluent in English. Plaintiff’s allegations indicate that this
8 is not a complex case involving complex facts or law.

9 In addition, plaintiff presents no evidence to show that he is likely to succeed on
10 the merits of his case. While plaintiff may not have vast resources or legal training, he
11 meets the threshold for a *pro se* litigant. Plaintiff contends that he does not have higher
12 education, but this alone is not sufficient to require appointment of counsel. See *Wood*
13 *v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990) (noting that contended exceptional
14 factors were “difficulties which any litigant would have in proceeding *pro se*”). Plaintiff
15 also contends that he requires counsel to protect him from retaliatory deportation. The
16 Court lacks jurisdiction in this case appoint plaintiff counsel for his immigration
17 proceedings before another court.

18 Thus, plaintiff has failed in his burden to demonstrate an inability to present his
19 claims to this Court without counsel or to show that exceptional circumstances require
20 the Court to appoint counsel at this stage. See generally, *Mallard v. U.S. Dist. Court for*
21 *Southern dist. of Iowa*, 490 U.S. 296, 310 (1989) (28 U.S.C. § 1915 does not allow a
22 federal court to coercively appoint counsel); *James v. Eli*, 889 F.3d 320, 330-331 (7th
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1 Cir. 2018) (*en banc*) (district courts may ask, but not compel, a lawyer to represent an
2 indigent litigant).

3 The Court DENIES the motion (Dkt. 8) without prejudice. Plaintiff will be allowed
4 to renew this motion if, later in the proceedings, exceptional circumstances would
5 require appointment of counsel.

6 The Clerk shall send a copy of this Order to plaintiff.

7 Dated this 30th day of September, 2020.

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11 Theresa L. Fricke
12 United States Magistrate Judge
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